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ORIGINAL

June 12, 2006

By Hand Delivery

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The Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

JUN 12 2006

Federal Communications Commission
Office of Secretary

Re: Ex Parte Presentation – CS Docket Nos. 98-120

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. §1.1206, this letter reports that Ibra Morales, President of the Telemundo Stations Group, with Victor Cabral and Bill LeBeau, Senior Counsels (collectively, the "Telemundo Representatives") addressed the above-referenced proceeding with the following persons in a series of separate communications on June 8, 2006: Chairman Kevin Martin and his legal advisor, Heather Dixon; Commissioner Deborah Taylor Tate and her legal advisor, John Grant; and Commissioner Robert McDowell and his legal advisor, Cristina Pauzé.

In these meetings, the Telemundo Representatives discussed the many public benefits of not allowing cable operators to strip out any free, over-the-air digital programming broadcast by a local station that has elected must-carry upon the nation's transition to digital. Telemundo's concerns reflect the unique challenges faced by many local television stations that are attempting to serve the nation's Spanish-language community, and how the advent of digital television, including multicasting, has the potential to address two of the most significant issues facing Spanish-language television.

First, multicasting should enable Spanish-language stations to better serve the many diverse backgrounds and cultures that comprise the U.S. Spanish-language television audience. Nationally and locally, Telemundo invests millions of dollars to develop our own programming in order to serve viewers from more than a dozen Spanish-speaking countries or distinct societies, many of whom have their own dialects and unique concerns. However, when an individual Telemundo station has to choose between programming of interest to the general Spanish-language community and a single valuable subset of that community, the station, on balance, cannot ignore the needs of the broader community, which necessarily causes Telemundo stations to circumscribe the amount of more narrowly focused programming they can air.

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These challenges notwithstanding, Telemundo recognizes the value of such programming to *specific segments of our viewership*. In several markets, Telemundo stations try to provide some targeted programming, where it may be done consistent with these stations' broader service to the Spanish-language community as a whole. For example, Telemundo's Puerto Rico station routinely develops 40-plus hours of local programming per week. Telemundo would be interested in delivering some or all of this programming to over-the-air viewers in other markets, many of which includes substantial numbers of persons of Puerto Rican descent, but is limited by having only a single analog channel that is assured of reasonably broad distribution. Other individual Telemundo stations also broadcast unique or innovative programming intended to better serve a particular subgroup within the Spanish-language community – in New York, for example, our station, WNJU(TV), Linden, New Jersey, airs a weekly program focusing on issues related to the Dominican Republic. Again, however, the limited airtime available to a single Spanish-language station in turn limits the ability of stations in other markets to acquire or to develop such diverse programming.

Multicasting, along with cable carriage, will create new opportunities for such programming to serve Spanish-language viewers throughout the United States. The question is not whether Telemundo or other programmers will develop such programming; much such programming is already available. The real question will be whether the viewers who want such programming will be able to access it via their local cable operator, as many Spanish-language viewers look to their local cable operator for television programming.¹ Telemundo's own recent experiences with local carriage issues confirm that, without a requirement that cable operators transmit all of a local station's free, over-the-air programming, many consumers may not be able to access even a single new Spanish-language multicast offering. More than a decade ago, Congress required that cable operators carry on their basic tier all free, over-the-air analog programming from full-power local television stations within those stations' television markets. Congress did not extend similar protection to most low-power television stations.² The result has been that Telemundo stations and affiliates without full-power status are not assured of cable carriage on the basic tier, which means that many cable subscribers cannot access Telemundo's established *analog* programming without paying higher monthly charges, even when they can access it at all.³ Without a

¹ See Media Bureau Staff Report Concerning Over-The-Air Broadcast Television Viewers, MB Docket No. 04-210 at n.17 (released February 28, 2005) (suggesting that, nationally, approximately 67 to 72 percent of U.S. Hispanic television households use means other than over-the-air analog broadcast to access television programming.)

² See, e.g., 47 U.S.C. § 534(h)(1)(B)(i) (excluding low power television and television translator stations from definition of "local commercial television station").

³ See, e.g., *Amendment of the Television Table of Allotments to Delete Noncommercial Reservation of Channel *39, 620-626 MHz, Phoenix, Arizona, and to Add Noncommercial Reservation on Channel 11, 198-204 MHz, Holbrook, Arizona*, Memorandum Opinion and Order, MB Docket No. 04-312, at ¶¶ 10, 15 (released October 13, 2005) (addressing the differences in local cable carriage of Telemundo's established Class A station in Phoenix and a proposed full-power Phoenix station). For decades, the Commission has recognized that Spanish-language stations often require protection from efforts of cable operators to refuse such local stations carriage within those stations' local markets. See, e.g., *Tele-Media Company*, 10 FCC Rcd 8615, 8617 (CSB 1995) (citing *Amendment of Part 76, Subparts A and D of the Commission's*

requirement that cable operators carry all free, over-the-air digital programming broadcast by a local station, cable subscribers likewise will not be assured access to their local Telemundo station's multicast programming.

Second, multicasting should enable a Spanish-language station to spread unavoidably high fixed operating costs across more programming. Spanish-language stations frequently must operate in the nation's largest television markets in order to serve the U.S. Spanish-language community. Of the nation's top-10 Hispanic Designated Market Areas, six also are in top-ten television markets overall, and eight are in the top-20 overall.⁴ Because only a particular segment of the market's larger audience can understand programming offered in Spanish, however, Telemundo stations frequently operate as small-market stations, in terms of revenues, even while facing the higher costs commonly associated with large-market stations. Indeed, in many cases, Telemundo stations face higher programming costs and more logistical challenges than English-language stations.⁵ However, as has been noted elsewhere in this docket, multicasting again offers stations an opportunity to overcome these challenges by creating a greater amount of possible advertising time that may be sold, assuming that viewers are able to access that programming via their local cable service as such access will be vital in providing a large enough audience to be appealing to the advertisers necessary to continue to offer such programming.

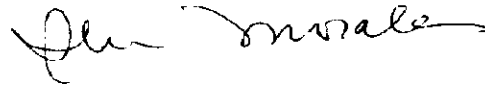
Rules and Regulations Relative to Adding a New Definition for "Specialty Stations" and "Specialty Format Programming" and Amendment the Appropriate Signal Carriage Rules, Memorandum Opinion and Order, 58 FCC 2d 442, 452 (1976), recon. denied, 60 FCC 2d 661 (1976)). Similarly, issues regarding access to local Spanish-language stations have not been limited to cable. Prior to the passage of the Satellite Home Viewer Improvement and Reauthorization Act of 2004, many Telemundo viewers were not able to access their local Telemundo affiliate, even when that affiliate has must-carry rights, without acquiring and installing a second dish, which resulted in many viewers not being able to access the signal. See 47 U.S.C. § 338(g)(1).

⁴ See, e.g., http://www.tvb.org/rcentral/markettrack/Top_25_Hispanic_Markets.asp (last viewed June 12, 2006). According to 2006 Nielsen data, the top-ten Hispanic DMAs are, in order: Los Angeles, New York, Miami, Houston, Chicago, Dallas, San Antonio, San Jose-San Francisco, Phoenix and Harlingen-Brownsville, Texas. Approximately 55 percent of the nation's Hispanic television households reside in one of these ten markets. See *id.*

⁵ See, e.g., *Closed Captioning and Video Description of Video Programming*, Order on Reconsideration, 13 FCC Rcd 19,973 (¶¶ 93-95 & nn. 303-04) (1998) (referring to higher costs and more challenging logistics of captioning Spanish-language programming as reasons for extending timetable for captioning Spanish-language programming).

An original and one copy of this *ex parte* letter are being filed with the Secretary's Office as required by Section 1.1206(b)(2) of the Commission's Rules. Please contact the undersigned via the above contact information if there are any questions with respect to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ibra Morales', with a stylized flourish at the end.

Ibra Morales
President, Telemundo Stations

cc: Chairman Kevin Martin
Commissioner Deborah Taylor Tate
Commissioner Robert McDowell
Heather Dixon, Legal Advisor to Chairman Martin
John Grant, Legal Advisor to Commissioner Tate
Cristina Pauzé, Legal Advisor to Commissioner McDowell